

AMENDED IN ASSEMBLY APRIL 24, 2007

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

**ASSEMBLY BILL**

**No. 226**

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**Introduced by Assembly Member Huff**

January 29, 2007

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An act to amend Section 22651 of the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL’S DIGEST

AB 226, as amended, Huff. Vehicles: removal.

(1) Existing law authorizes a peace officer, or a regularly employed and salaried public employee, who is engaged in directing traffic or enforcing parking laws and regulations, to remove a vehicle located within the territorial limits in which the officer or employee is allowed to act under specified and enumerated circumstances.

This bill would additionally allow for the removal of a vehicle upon the issuance of a notice of reexamination to a driver and there is no other person readily available who has a valid driver’s license and authorization, as defined, to operate the vehicle. The bill would provide for the release of that vehicle to specified persons, but would prohibit the relinquishment of the vehicle to the person named on the notice of reexamination unless the Department of Motor Vehicles has determined that the person is qualified to operate the motor vehicle and provides written confirmation to that ~~effect~~ *effect*. The bill would prohibit the imposition of an administrative charge on a person who is authorized to obtain the release of a vehicle under the bill, *and would require a registered owner or his or her agent to be reimbursed by the agency employing the peace officer who removed the vehicle for any additional reasonable expenses incurred by the registered owner or his or her*

*agent related to the towing and storage of the vehicle, for up to 5 days, if the person named on the notice of reexamination has been reexamined and successfully demonstrated his or her ability to safely operate a motor vehicle.* Because, under existing law, a violation of the Vehicle Code is a crime, this bill would impose a state-mandated local program by creating a new crime.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 22651 of the Vehicle Code is amended  
2 to read:

3 22651. A peace officer, as defined in Chapter 4.5 (commencing  
4 with Section 830) of Title 3 of Part 2 of the Penal Code, or a  
5 regularly employed and salaried employee, who is engaged in  
6 directing traffic or enforcing parking laws and regulations, of a  
7 city, county, or jurisdiction of a state agency in which a vehicle is  
8 located, may remove a vehicle located within the territorial limits  
9 in which the officer or employee may act, under any of the  
10 following circumstances:

11 (a) When a vehicle is left unattended upon any bridge, viaduct,  
12 or causeway or in any tube or tunnel where the vehicle constitutes  
13 an obstruction to traffic.

14 (b) When a vehicle is parked or left standing upon a highway  
15 in a position so as to obstruct the normal movement of traffic or  
16 in a condition so as to create a hazard to other traffic upon the  
17 highway.

18 (c) When a vehicle is found upon a highway or any public lands  
19 and a report has previously been made that the vehicle has been  
20 stolen or a complaint has been filed and a warrant thereon issued  
21 charging that the vehicle has been embezzled.

22 (d) When a vehicle is illegally parked so as to block the entrance  
23 to a private driveway and it is impractical to move the vehicle from  
24 in front of the driveway to another point on the highway.

1 (e) When a vehicle is illegally parked so as to prevent access  
2 by firefighting equipment to a fire hydrant and it is impracticable  
3 to move the vehicle from in front of the fire hydrant to another  
4 point on the highway.

5 (f) When a vehicle, except any highway maintenance or  
6 construction equipment, is stopped, parked, or left standing for  
7 more than four hours upon the right-of-way of any freeway which  
8 has full control of access and no crossings at grade and the driver,  
9 if present, cannot move the vehicle under its own power.

10 (g) When the person or persons in charge of a vehicle upon a  
11 highway or any public lands are, by reason of physical injuries or  
12 illness, incapacitated to an extent so as to be unable to provide for  
13 its custody or removal.

14 (h) (1) When an officer arrests any person driving or in control  
15 of a vehicle for an alleged offense and the officer is, by this code  
16 or other law, required or permitted to take, and does take, the  
17 person into custody.

18 (2) When an officer serves a notice of an order of suspension  
19 or revocation pursuant to Section 13388.

20 (i) (1) When a vehicle, other than a rented vehicle, is found  
21 upon a highway or any public lands, or is removed pursuant to this  
22 code, and it is known that the vehicle has been issued five or more  
23 notices of parking violations to which the owner or person in  
24 control of the vehicle has not responded within 21 calendar days  
25 of notice of citation issuance or citation issuance or 14 calendar  
26 days of the mailing of a notice of delinquent parking violation to  
27 the agency responsible for processing notices of parking violation  
28 or the registered owner of the vehicle is known to have been issued  
29 five or more notices for failure to pay or failure to appear in court  
30 for traffic violations for which no certificate has been issued by  
31 the magistrate or clerk of the court hearing the case showing that  
32 the case has been adjudicated or concerning which the registered  
33 owner's record has not been cleared pursuant to Chapter 6  
34 (commencing with Section 41500) of Division 17, the vehicle may  
35 be impounded until that person furnishes to the impounding law  
36 enforcement agency all of the following:

37 (A) Evidence of his or her identity.

38 (B) An address within this state at which he or she can be  
39 located.

1 (C) Satisfactory evidence that all parking penalties due for the  
2 vehicle and any other vehicle registered to the registered owner  
3 of the impounded vehicle, and all traffic violations of the registered  
4 owner, have been cleared.

5 (2) The requirements in subparagraph (C) of paragraph (1) shall  
6 be fully enforced by the impounding law enforcement agency on  
7 and after the time that the Department of Motor Vehicles is able  
8 to provide access to the necessary records.

9 (3) A notice of parking violation issued for an unlawfully parked  
10 vehicle shall be accompanied by a warning that repeated violations  
11 may result in the impounding of the vehicle. In lieu of furnishing  
12 satisfactory evidence that the full amount of parking penalties or  
13 bail has been deposited, that person may demand to be taken  
14 without unnecessary delay before a magistrate, for traffic offenses,  
15 or a hearing examiner, for parking offenses, within the county in  
16 which the offenses charged are alleged to have been committed  
17 and who has jurisdiction of the offenses and is nearest or most  
18 accessible with reference to the place where the vehicle is  
19 impounded. Evidence of current registration shall be produced  
20 after a vehicle has been impounded, or, at the discretion of the  
21 impounding law enforcement agency, a notice to appear for  
22 violation of subdivision (a) of Section 4000 shall be issued to that  
23 person.

24 (4) A vehicle shall be released to the legal owner, as defined in  
25 Section 370, if the legal owner does all of the following:

26 (A) Pays the cost of towing and storing the vehicle.

27 (B) Submits evidence of payment of fees as provided in Section  
28 9561.

29 (C) Completes an affidavit in a form acceptable to the  
30 impounding law enforcement agency stating that the vehicle was  
31 not in possession of the legal owner at the time of occurrence of  
32 the offenses relating to standing or parking. A vehicle released to  
33 a legal owner under this subdivision is a repossessed vehicle for  
34 purposes of disposition or sale. The impounding agency shall have  
35 a lien on any surplus that remains upon sale of the vehicle to which  
36 the registered owner is or may be entitled, as security for the full  
37 amount of the parking penalties for all notices of parking violations  
38 issued for the vehicle and for any local administrative charges  
39 imposed pursuant to Section 22850.5. The legal owner shall  
40 promptly remit to, and deposit with, the agency responsible for

1 processing notices of parking violations from that surplus, on  
2 receipt thereof, full amount of the parking penalties for all notices  
3 of parking violations issued for the vehicle and for any local  
4 administrative charges imposed pursuant to Section 22850.5.

5 (5) The impounding agency that has a lien on the surplus that  
6 remains upon the sale of a vehicle to which a registered owner is  
7 entitled pursuant to paragraph (4) has a deficiency claim against  
8 the registered owner for the full amount of the parking penalties  
9 for all notices of parking violations issued for the vehicle and for  
10 any local administrative charges imposed pursuant to Section  
11 22850.5, less the amount received from the sale of the vehicle.

12 (j) When a vehicle is found illegally parked and there are no  
13 license plates or other evidence of registration displayed, the  
14 vehicle may be impounded until the owner or person in control of  
15 the vehicle furnishes the impounding law enforcement agency  
16 evidence of his or her identity and an address within this state at  
17 which he or she can be located.

18 (k) When a vehicle is parked or left standing upon a highway  
19 for 72 or more consecutive hours in violation of a local ordinance  
20 authorizing removal.

21 (l) When a vehicle is illegally parked on a highway in violation  
22 of a local ordinance forbidding standing or parking and the use of  
23 a highway, or a portion thereof, is necessary for the cleaning,  
24 repair, or construction of the highway, or for the installation of  
25 underground utilities, and signs giving notice that the vehicle may  
26 be removed are erected or placed at least 24 hours prior to the  
27 removal by local authorities pursuant to the ordinance.

28 (m) Wherever the use of the highway, or a portion thereof, is  
29 authorized by local authorities for a purpose other than the normal  
30 flow of traffic or for the movement of equipment, articles, or  
31 structures of unusual size, and the parking of a vehicle would  
32 prohibit or interfere with that use or movement, and signs giving  
33 notice that the vehicle may be removed are erected or placed at  
34 least 24 hours prior to the removal by local authorities pursuant  
35 to the ordinance.

36 (n) Whenever a vehicle is parked or left standing where local  
37 authorities, by resolution or ordinance, have prohibited parking  
38 and have authorized the removal of vehicles. No vehicle may be  
39 removed unless signs are posted giving notice of the removal.

(o) (1) When a vehicle is found or operated upon a highway, any public lands, or an offstreet parking facility with a registration expiration date in excess of six months before the date it is found or operated on the highway, public lands, or the offstreet parking facility. However, whenever the vehicle is occupied, only a peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, may remove the vehicle. For the purposes of this subdivision, the vehicle shall be released to the owner or person in control of the vehicle only after the owner or person furnishes the storing law enforcement agency with proof of current registration and a currently valid driver's license to operate the vehicle.

(2) As used in this subdivision, "offstreet parking facility" means any offstreet facility held open for use by the public for parking vehicles and includes publicly owned facilities for offstreet parking, and privately owned facilities for offstreet parking where no fee is charged for the privilege to park and which are held open for the common public use of retail customers.

(p) When the peace officer issues the driver of a vehicle a notice to appear for a violation of Section 12500, 14601, 14601.1, 14601.2, 14601.3, 14601.4, 14601.5, or 14604 and the vehicle has not been impounded pursuant to Section 22655.5. A vehicle so removed from the highway or any public lands, or from private property after having been on a highway or public lands, shall not be released to the registered owner or his or her agent, except upon presentation of the registered owner's or his or her agent's currently valid driver's license to operate the vehicle and proof of current vehicle registration, or upon order of a court.

(q) Whenever a vehicle is parked for more than 24 hours on a portion of highway which is located within the boundaries of a common interest development, as defined in subdivision (c) of Section 1351 of the Civil Code, and signs, as required by Section 22658.2, have been posted on that portion of highway providing notice to drivers that vehicles parked thereon for more than 24 hours will be removed at the owner's expense, pursuant to a resolution or ordinance adopted by the local authority.

(r) When a vehicle is illegally parked and blocks the movement of a legally parked vehicle.

(s) (1) When a vehicle, except highway maintenance or construction equipment, an authorized emergency vehicle, or a

1 vehicle which is properly permitted or otherwise authorized by  
2 the Department of Transportation, is stopped, parked, or left  
3 standing for more than eight hours within a roadside rest area or  
4 viewpoint.

5 (2) For purposes of this subdivision, a roadside rest area or  
6 viewpoint is a publicly maintained vehicle parking area, adjacent  
7 to a highway, utilized for the convenient, safe stopping of a vehicle  
8 to enable motorists to rest or to view the scenery. If two or more  
9 roadside rest areas are located on opposite sides of the highway,  
10 or upon the center divider, within seven miles of each other, then  
11 that combination of rest areas is considered to be the same rest  
12 area.

13 (t) When a peace officer issues a notice to appear for a violation  
14 of Section 25279.

15 (u) (1) (A) When a peace officer issues a notice of  
16 reexamination to a driver under Section 21061 and there is no other  
17 person readily available who has a valid driver's license and  
18 authorization to operate the vehicle.

19 (B) For purposes of subparagraph (A), "authorization" means  
20 permission from the driver, registered or legal owner of the vehicle,  
21 or an agent of the driver or owner, and the peace officer issuing  
22 the notice of reexamination has determined that the authorized  
23 person is able to safely and lawfully operate the vehicle.

24 (2) A vehicle removed from a highway or public lands under  
25 this subdivision shall be released to any of the following:

26 (A) The registered owner or his or her agent, if he or she is the  
27 person named on the notice of reexamination upon written  
28 confirmation from the Department of Motor Vehicles that a  
29 reexamination of that person's ability to operate a motor vehicle  
30 has been conducted under Section 12818, and that person has  
31 successfully demonstrated his or her ability to operate a motor  
32 vehicle safely as required under Section 12804.9.

33 (B) The registered owner or his or her agent, if other than the  
34 person named on the notice of reexamination.

35 (C) The legal owner or his or her agent, if other than the person  
36 named on the notice of reexamination.

37 (3) A registered or legal owner, or his or her agent, that obtains  
38 release of the vehicle under subparagraph (B) or (C) of paragraph  
39 (2) may relinquish the vehicle to the person named on the notice  
40 of reexamination when that person presents to the person releasing

1 the vehicle a written confirmation from the Department of Motor  
2 Vehicles that a reexamination of the person's ability to operate a  
3 motor vehicle has been conducted under Section 12818, and the  
4 person has successfully demonstrated his or her ability to safely  
5 operate a motor vehicle as required under Section 12804.9.

6 (4) An administrative fee shall not be charged under Section  
7 22850.5 for the release of a vehicle in accordance with this  
8 subdivision. *A registered owner or his or her agent shall be*  
9 *reimbursed by the agency for which the peace officer who removed*  
10 *the vehicle is employed for any additional reasonable expenses*  
11 *incurred by the registered owner or his or her agent related to the*  
12 *towing and storage of the vehicle, for up to five days, if the*  
13 *conditions of subparagraph (A) of paragraph (2), or paragraph*  
14 *(3), are met.*

15 (5) The Department of Motor Vehicles shall, as appropriate,  
16 issue a written confirmation as described in paragraphs (2) and  
17 (3).

18 (6) The legislative intent of this subdivision is to ensure public  
19 safety and not to unnecessarily deprive a person of his or her motor  
20 vehicle or cause financial hardship.

21 SEC. 2. No reimbursement is required by this act pursuant to  
22 Section 6 of Article XIII B of the California Constitution because  
23 the only costs that may be incurred by a local agency or school  
24 district will be incurred because this act creates a new crime or  
25 infraction, eliminates a crime or infraction, or changes the penalty  
26 for a crime or infraction, within the meaning of Section 17556 of  
27 the Government Code, or changes the definition of a crime within  
28 the meaning of Section 6 of Article XIII B of the California  
29 Constitution.